

MOTOR FUELS UPDATE

DEPARTMENT OF REVENUE



Volume 13, Edition 1

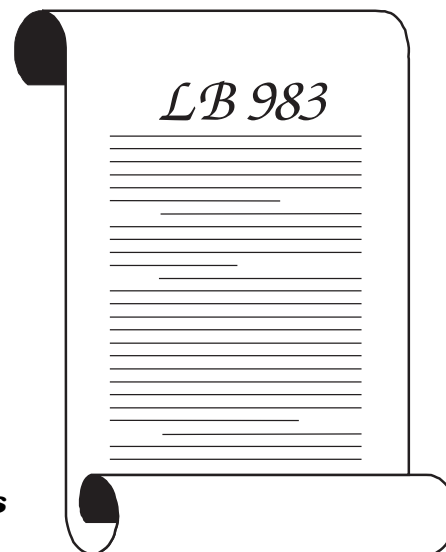
Semiannually

April 2004

LB 983 History & Implementation

In the Fall of 2002, Motor Fuels Division staff began meeting to discuss ideas as to how we could eliminate some of the filing complexities in our motor fuel laws. The net result of these meetings was the passage of LB 983, which will become effective on January 1, 2005. The following is a brief summary of the major components of the bill. During the next several months, specific information will be released for all changes.

While we are telling you about this now, the changes will not be effective until January 1, 2005.



COMBINED STATUTES

If you will remember back several years, the point of taxation was different for gasoline than it was for diesel. Gasoline was taxed upon receipt, while diesel was not taxed until sold. This necessitated separate sets of statutes for motor vehicle fuels and diesel fuel. Effective January 1, 2000, the point of taxation for diesel was also moved to receipt, thereby allowing a consolidation of the gasoline and diesel statutes. The former diesel statutes (§66-600 series) will be repealed and amended into the current motor vehicle fuel statutes (§66-400 series). We will also broaden

the definition of motor fuels to include motor vehicle fuels (gasoline, ethanol blends), diesel fuel, aircraft fuel, and compressed fuel (propane, CNG). This is essentially a "housekeeping" change and does not change the way motor fuel taxes are imposed or collected.

PRODUCERS (ETHANOL AND BIODIESEL)

The past several years has seen a dramatic increase in the production of ethanol in Nebraska. Currently, ethanol producers, as well as those who blend ethanol with gasoline, file a supporting schedule (Schedule E) with their monthly fuel tax return. Because these ethanol

producers are truly "refiners," a separate category of fuel license will be created. They will be licensed as a "producer" filing their own return. In addition, the point of taxation of unblended ethanol will be changed to mirror that of gasoline. The supporting Schedule E, currently completed by those having storage and/or those that blend the ethanol with gasoline, will be eliminated. Bulk storage of ethanol by a producer or by a producer or supplier at a pipeline storage facility will remain untaxed. All other storage of ethanol will be taxed.

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We are also seeing an emerging use of biodiesel in Nebraska. In anticipation of its gaining importance, Nebraska producers will be required to obtain a producer's license and file their own return. The rules governing biodiesel will mirror those of ethanol.

In an attempt to develop some consistency in discussing and reporting ethanol and biodiesel products, we are adopting the following definitions:

- **ETHANOL**

This is the pure denatured ethyl-alcohol **before** being blended with gasoline. It will carry the designation E-100, meaning 100% ethanol.

- **ETHANOL BLEND**

This is the resulting fuel grade blend of ethanol and gasoline. It will carry a designation identifying the percentage of ethanol in the blend. For example, E-10 will designate a blend of 10% ethanol and 90% gasoline. E-85 will designate a blend of 85% ethanol and 15% gasoline.

- **BIODIESEL**

This is the pure fuel **before** being blended with diesel. It is normally produced from soybeans. It will carry the designation B-100, meaning 100% biodiesel.

- **BIODIESEL BLEND**

This is the resulting fuel grade blend of biodiesel and diesel. It will carry a designation identifying the percentage of biodiesel in the blend. For example, B-2 will designate a blend of 2% biodiesel, 98% diesel. B-10 will designate a blend of 10% biodiesel and 90% diesel.

MOTOR FUELS CARRIER

Currently, anyone transporting motor vehicle fuels, aircraft fuels, or diesel must be licensed as a motor fuels carrier. If you exclusively haul your own product, you must still be licensed but your filing requirement is waived. If you haul

someone else's product for hire, you are required to file a periodic return. Effective January 2005, anyone hauling ethanol or biodiesel in Nebraska will also be subject to these licensing and filing requirements.

PETROLEUM RELEASE FEE

The Petroleum Release Remedial Action Fee (PRF) is a fee collected by us and transferred to the Department of Environmental Quality to be used by them in resolving issues involving leaking storage tanks. It is imposed on gasoline and diesel, including dyed diesel, and is collected from the person owning the product when it is first brought into the state. This has proven to be confusing as the person liable for the PRF fee is oftentimes not the person liable for the motor fuel tax. To resolve this, the incidence of the PRF fee will be changed to mirror the liability for payment of the motor fuel tax. Because all motor fuel returns are electronically filed, the appropriate PRF fee liability will be able to be determined through modifications to the filing software.

APPLICATION FEES

Over the years an application fee has been imposed to help offset the costs of reviewing and

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issuing various motor fuel licenses. This fee has ranged from \$1 to its current \$10 rate. Due to a reduction in the number of license applications and added efficiencies gained through computer processing, the application fee will be eliminated beginning with applications submitted in 2005.

NATURAL GASOLINE

Natural gasoline is a product used by ethanol producers. It is added to the ethanol they produce to denature it, thereby rendering it unfit for human consumption. While it is a low octane gasoline and not suitable to power vehicles, it still meets the definition of a motor vehicle fuel and is subject to both the motor fuel tax and the PRF fee. Currently ethanol producers pay the motor fuel tax and the PRF fee and file refund claims due to its qualifications as a nonhighway use. Beginning January 2005, natural gasoline purchased by an ethanol producer for use as a denaturant will be exempt from both the motor fuel tax and the PRF fee.

GASOLINE TAX REFUND

Finally, the method to obtain a refund of motor fuel tax paid on gasoline used in equipment and unlicensed motor vehicles

has changed. While this change does not have a direct impact on most motor fuel tax filers, it does affect some of your customers such as farmers and ranchers. For years, this refund has been claimed through a refundable credit by filing a Form 4136N with the Nebraska income tax return. Over the years, there has been a lot of misunderstanding with this program. Our basis for exemption is better explained as “non-licensed” than “nonhighway.”

- ✓ If the vehicle **is licensed** for operation upon the highways, its fuel **is taxable** and **not subject to refund** regardless of its usage.
- ✓ If the vehicle **is not licensed** for operation upon the highways, its taxed fuel **is subject to refund**.

Nebraska has no exemption for idle-time and no provisions for apportioned usage. All fuel placed into the supply tank of the motor vehicle is subject to these rules. Many claims have been disallowed due to claimant's failure to satisfy specific criteria. Two years ago, we eliminated licensing requirements for those eligible for refunds. This was an attempt to streamline the process. While this helped, we continued to encounter

filing problems. Finally, beginning January 2005, this refund will be claimed by filing a refund claim with us. It will no longer be necessary to wait until filing an income tax return. Once the claimant has accrued a refund of \$25 or more, they may file their claim. We have eliminated the criteria such as minimum purchases, marked and dedicated storage, and invoice statements. The only criteria will be that it is Nebraska tax-paid gasoline consumed in an unlicensed vehicle (utility tractor, mower, etc.) and that the claim must be filed in the amount of at least \$25.

For purposes of implementing this change, if the federal income tax year ends on or after 1/1/05, all credits will be claimed by filing a refund claim, regardless of when the fuel was purchased. If the federal tax year ends prior to 1/1/05, all credits will be claimed by filing a Form 4136N with their Nebraska income tax return.

UPDATE ON THOMAS QUINTIN, MAX OIL

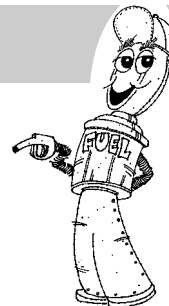
According to the November 21, 2003 *Denver Post* article, Thomas Quintin is incarcerated in Denver. He faces a 150-count indictment that includes tax evasion, money laundering and bank fraud charges.

Mr. Quintin ran a Denver-based company called Max Oil that operated retail outlets with names as Pit Stops and Mini Stop stations in Colorado, Wyoming and Nebraska. He moved to the Cayman Islands prior to a 1992 California sentencing hearing on a similar fraud scheme. The British-controlled Caymans are a renowned tax haven, because they will not extradite Americans for tax evasion. However, Mr. Quintin later moved to Toronto, Canada, where he and his wife Sandra Westphal were arrested. The Quintins spent the next few years fighting extradition during which time Mr. Quintin was held in custody.

Mr. Quintin finally made his first appearance in Denver's federal district court. He had no lawyer and requested that the court appoint one.

MOTOR FUELS TAX

The Nebraska motor fuels tax for **January 1, 2004** through **June 30, 2004** is **24.8 cents** per gallon.



FOR MOTOR FUELS TAXPAYER ASSISTANCE

Call your account representative
or toll free **1-800-554-FUEL**
(1-800-554-3835).

Lincoln residents call **471-5730**.

For ***TT** (Text Telephone),
dial **1-800-382-9309**.



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